

NWX-US DEPT OF COMMERCE

Agreements: Tips, Tricks, and Tradecraft June 8, 2021

Coordinator: Welcome and thank you for standing by. For the duration of today's conference all parties will be in listen-only mode. The question-and-answer session will be conducted via computer. This conference is being recorded today for transcription purposes. I would now like to hand the conference over to Ms. Wendy Peebles. Thank you. You may begin.

Wendy Peebles: Thank you operator. Good afternoon. My name is Wendy Peebles, Lead Outreach Coordinator, Census Bureau Economic Management Division. Today I'm happy to host the Webinar for the State Department to bring you information on agreements. This is the first of this type of Webinar so we are all excited.

Before we begin, I have a few housekeeping items. The question and answer will occur at the end. Please submit your questions via the WebEx chat to all panelists. Once again using the WebEx chat to all panelists.

The presenters will address as many questions as possible in the allotted time. The contact information will be provided for further follow-up. The presentation, recording and transcript will be provided in about ten business days following this Webinar. And that link will be provided in the chat to the Census Academy Web site.

At the end of the Webinar you will be asked to complete an evaluation as you exit. We value your feedback and the evaluations assist us in planning future Webinar content. So please complete the Webinar.

So you see in front of you just wanted to give, you are at the right place. I don't want you to think you're at the wrong place where it says Census Resources but I just would like to provide you some information on Census resources for expanding your business opportunities.

I'm certain everyone wants to explore growth opportunities. So I just want to share a few of our resources. And the first is the Census COVID-19 Data Hub.

This data hub contains selected demographic and economic resource information to keep you updated on the pandemic and has been invaluable to understanding the potential impact of the coronavirus pandemic. The surveys that make up the data that is in the hub comes from the American Community Survey and the Employer Business and Self-Employed People so that you can see the impact on people and their households.

Census has recently added new data sets from public, non-profit and private sector in partnership with FEMA to help guide your decision making. The data is easily accessible in that it can be downloaded and it's optimized to use on your desktop, laptop, tablet or mobile device.

Next just want to mention about the Census Business Builder. This tool is a suite of services that provide selected demographic and economic data from the Census Bureau tailored to specific types of users in a simple to access and use format. The tool is useful for small business owners who need key data for their business plans or to better understand their potential market.

It also has industry specific data. As the other tool it is menu driven to search for nearby business types. It offers interactive and download report capability and it is also optimized for your smartphone or tablet.

And lastly, we have the Census Trade Source newsletter. This is a newsletter that is published twice a year in January and July. And we feature articles in partnership with our partnership agencies, Customs, EXIM Bank, Bureau of Industry and Security covering compliance, finance and licensing information.

So in short it provides tips for expanding international opportunities and resources.

Next slide please. And here I just wanted to provide you with our contact information. We do offer customized training. Simply call our international trade helpline, select the appropriate option that best meets your business need and our information outreach event is listed on our Census Academy Web site.

And just recently we prepared a podcast that contains economic indicator and our census data tools to once again assist you with international business opportunities. So, when you have a moment please take a look at our podcast. And if you need specialized or customized training feel free to reach out to the Census. And at this time, I will turn it over to Lisa.

(Lisa): Thank you so much, Wendy. So as mentioned we are here from the Directorate of Defence Trade Controls. We've been partnering with Census for about two years now mostly providing updates on DECCS. But today we wanted to invite two special guest speakers to talk specifically about agreements.

So with us today we have Patrick Reimnitz who works on the management team at our licensing office and has four years of experience with agreements. And he is also the author of the upcoming Agreement Guidelines Division 5.0. We're also joined by Dhramen Singh who's an Agreement Officer focusing on electronics and training systems. And he has been with this office since last summer.

And then for those of you who have attended a few of these Webinars you may recognize I'm Lisa. Charlie Chris and I, who helped support the IT Modernization team. And in today's session we're going to be facilitating, managing the Q&A. And we're also here to help any questions that may come in about DECCS.

Next slide please. So here are the topics we're going to cover on today's agenda. We're going to start with an introduction to agreements, cover some common RWA or Return Without Action situations, go over the review process, discuss policy and scope changes, talk about some tips, tricks and tradecraft of agreements with CDCC, and then we'll have a moderated Q&A.

So as mentioned earlier, the best way to ask questions is to go ahead and enter your questions into the WebEx chat. Since all lines are muted we are going to keep an eye on the chat to pull the questions over for Patrick and Dhramen. And with that I'm going to turn this over to Patrick, who's going to walk us through the introduction to agreements.

Patrick Reimnitz: All right thank you. Good afternoon everyone. So we're going to start off with what is an agreement? So an agreement is a different type of authorization. We do licenses at DDTC for the export of USML controlled defense articles.

And a lot of people have submitted and if you're an industry and you're familiar with that there's the DSP-5, the DSP-73. These are different forms that are that once you get them back from DDTC are licenses. That is a license is one type of authorization, agreement is another.

Rather than being a license, an agreement is a written document that binds the scope of work that goes beyond just a simple export transaction. The big thing that differentiates an agreement from a typical license is the performance of defense services.

So here we see a definition, an agreement generally involves multiple transactions of hardware and/or tech data between two or parties involving the performance of a defense service. A defense service requires an authorization from DDTC. And the agreement is the typical authorization issued in order to authorize that.

If you go to the next slide. There are three types of agreements that DDTC authorizes. You have the Technical Assistance Agreement or which we

abbreviate TAA. And that authorizes the performance of defense services and/or the disclosure of technical data.

It can also authorize the transfer of hardware. Do want to differentiate here that even if an agreement authorizes hardware, a separate hardware license is required for the actual export. So while the agreement may authorize the approval, maybe an approval to export, you can't actually export with an agreement. You will need to come in with a hardware license.

So Technical Assistance Agreement consists of the authorization of defense services, technical data and sometimes hardware. A manufacturing license agreement is very similar TAA except that it also authorizes the manufacture abroad of defense articles. TAA can authorize the export of defense articles but a manufacturing license agreement authorizes the manufacture abroad and then the eventual sale and distribution of defense articles overseas.

The third type of agreement is a Warehouse Distribution Agreement. This is the establishment of a distribution point overseas where a US company and a foreign company get into an arrangement where the US company will sell and ship the defense articles to a warehouse distribution point overseas. And then from that point it is sold and distributed to other foreign end users. Typically the Warehouse Distribution Agreement does not include defense services which makes it different from a Technical Assistance Agreement and a MLA.

Next slide. The agreement submission has three main components. There is the transmittal letter, there is the proposed agreement, and there is the DSP-5 vehicle form. The transmittal letter is an explanation to the government. It's basically the contractor or the exporter telling us, DDTC the government, what this transaction is going to entail.

It includes details that are not released to the foreign parties such as the value of the agreement. It also can include provisos or limits as to what is going to be exported. This might be where the exporter will say, "We're going to be exporting this item and perform these defense services. However, we're not

going to share X, Y, Z technical data with them." So that the transmittal letter is the format for sharing that kind of information to the government since the - this document is only going to go to us and - us as a government and not to the foreign users.

The proposed agreement is the actual authorization document. So this is what - when an agreement is approved by DDTC it is a written document that is submitted to DDTC for review. We review it. We make any - suggest any changes that we want the company to make.

Once that is made the document then is signed by the applicant and then all the other signatories to an agreement. So the signatories can include other US parties that are going to participate and also the foreign parties that are going to be participating and which will be the recipients of defense services from the US parties. Again this is the actual authorization document. It is not the DSP-5 licensing form which is the third component of the agreement submission.

We call it a, when we're dealing with agreements, we call it a DSP-5 Vehicle because it's not an actual license in terms of agreements. Even though we're using a DSP-5 form which was developed for hardware licenses it does not go to the foreign parties. It does not go to Customs and Border Patrol for the actual export it is just to collect information electronically and also to provide provisos to the agreements back to the US applicant.

So the DSP-5 Vehicle form is filled out by the applicant. When DDTC gets it we use it as a mechanism to check the watch list. The watch list is where we have parties that are bad actors and we check the parties on this - that are listed on the DSP-5 against this watch that to see if anything pops up.

If there's a company that has a past history of diverting USML to parties where it shouldn't be they will show up on this watch list. And if they do then we will have to have them removed from the agreement. But again the DSP-5 serves as only a vehicle for the transaction it's not actually the authorization.

The agreement documents itself is the authorization. The DSP-5 again it allows us to collect the information, run parties past the watch list and then to communicate any provisos back to the applicant.

Next slide. So after that brief introduction of agreements we'll talk first about some common RWA situations. So an RWA is a Return Without Action. This is where an application cannot be processed for one reason or another.

While it is possible for an RWA to be to be generated from DOD or one of the other staffing agencies, more often than not about probably 98% of it is - the RWAs come from DDTC, based on an error in the submission. Most of these are DSP-5 related.

The problem is that even though the DSP-5 is not the authorization, it is the mechanism that we use to check parties against the watch list. It is also the mechanism we use to check to make sure that the application complies with certain congressional reporting items that we need to do. So if there's an error in the DSP-5 the form itself cannot be changed. So if there's an error we will have to RWA and ask the applicant to resubmit with the errors corrected.

Some of the common errors that we see that would generate an automatic RWA are errors and on the DSP-5 specifically in Blocks 11 and 12. So Block 11 is where you would put the USML category. So on a normal DSP-5 permanent export license you would put the USML category of whatever you're exporting. And typically that would be hardware. So you would put the hardware category associated with the hardware that you're exporting.

With an agreement you would put a technical data category not a hardware category in Block 11 in DSP-5. If a hardware category is put in Block 11 that's going to result in an RWA. So if you're doing a submission for an agreement make sure Block 11 has a technical data category only.

Block 12 is another one that will generate an automatic RWA. We have to

make sure that the value matches what is submitted in the transmittal letter. So in the transmittal letter you have several different categories of value.

But what we're looking at is the total value of the agreement. So that is the total value of the defense services, the technical data and the hardware that are involved in the agreement. That value needs to be included in Block 12 of the DSP-5.

Most companies get that correct. Where we see errors is on agreement amendments. So when an agreement comes in for an amendment sometimes value is added, sometimes it's not. If value is being added to the agreement it is the change in value that needs to go into Block 12.

So for example you have a \$5 million agreement, you're coming in for an amendment because you want to add \$1 million. So you add \$1 million the new total value is \$6 million. But what changed is \$1 million. It's the \$1 million that needs to go in Block 12.

If you put \$6 million, i.e., the total value of the agreement, that's going to result in an RWA because that will cause us to do double counting here when we run our analysis. So it has to be the change in value not the total value of the agreement.

Another error that will result in a RWA is improperly filling out the DSP-5 Vehicle. As I mentioned before it - in terms of an agreement the DSP-5 serves as a vehicle. It is not a licensing form. Because it is serving as a vehicle the blocks are used in different ways than it would be used with a DSP-5 permanent hardware license.

A lot of times we get applicants that will fill out the DSP-5 based on the headings of each block which again are meant for a permanent export. We use the blocks differently in agreements. You need to check the agreements guidelines and follow the steps there to know what to put in to each block.

And in an agreement, Block 14 is not just the foreign end user but also the foreign signatories, sales territories, any other foreign entity that is going to receive this hardware or defense services technical data. The only exception being foreign sublicensees, which will go into Block 16.

Another block that is used - so Block 16 is definitely used different from a permanent export license. Another block that it is used differently is Block 18. For an agreement that's where you would put and identify dual nationals and third country nationals that you're requesting to be authorized for the agreement.

So when you're filling out a DSP-5 foreign agreement do make sure you check the tabs in the back of the agreements guidelines. It would be Tab D where it's got the step by step instructions on what to put in each block. Make sure that those are filled out otherwise you'll end up with RWA.

Another item that may generate an RWA is failure to list all end users and transfer territories on the DSP-5. So as I mentioned anywhere this is going it has to be listed in the DSP-5 Vehicle. Even if the entity is not a signatory of the agreement we need to have it listed on the DSP-5.

So for example if you have an agreement with a company in the United Kingdom but they're doing work that is going to be used by the government of France, the government of France may not be a signatory of the agreement. However, they are the ultimate end user so they still need to show up on the DSP-5. If they're not listed on the DSP-5 and they are the ultimate end user then that will result in a RWA.

And that kind of goes in line with the next bullet there where if you don't identify the ultimate end user who's not a signatory of the agreement it'll result in an RWA. Part 130 - for those who are not familiar with Part 130, a transaction that is valid and over \$500,000 and is for the end use of a foreign armed force requires Part 130 certification.

So a lot of errors that we see with agreements is when an agreement comes in for an amendment they will - the applicant will check Part 130 based on the value of the amendments or, i.e., the change in value rather than the value of the overall agreement. When you come in for an amendment you need to make sure you answer Part 130 based on the entire scope.

To go back to the example we used earlier with the value you have a \$5 million agreement and let's say it's for the use of a military it meets Part 130. To come in for amendment you're adding let's say you're adding -- for this example you're only adding \$100,000, \$100,000 is going into Block 12 of the DSP-5. Now that value alone would not trigger Part 130.

However, the value of the agreement is not \$100,000 it is \$5,100,000. So you have to check it based on that value. That value does exceed \$500,000 so you would check positive for Part 130 even though what you place in Block 12 is less than \$500,000. So that's a mistake we often see which will result in an RWA. Make sure you're answering Part 130 based on the entirety of the agreement not just on the change in value.

And then finally another item that may result in RWAs is a mismatch between the documents, i.e., the transmittal letter and the agreement doc itself and what is on the DSP-5. So if you have one set of addresses on the DSP-5 and a different set of addresses on the agreement document itself that will - that entity cannot be approved the way it's written.

So we often give applicants the opportunity to proceed with the agreement but without that entity included or to be authorized. A lot of times though the entity is required. So what they will say is, you know what go ahead and RWA because again we cannot fix the DSP-5. Therefore, if there's a mismatch you either have to cut that party from the agreement or RWA it so that the address can be fixed.

And bottom line a lot of these errors can be avoided if you use the guidelines. The agreement guidelines can be found on the DDTC Web site. Go to the

back and the tabs and tab D and look for the instructions on how to properly fill out the DSP-5. There's step by step instructions on what to put in each block.

And if the instructions don't make sense do, please do call DDTC. We're happy to answer any questions about what exactly you're trying to do and how to put it into the DSP-5 correctly so we can avoid an RWA. We don't like them any more than you do.

All right, next slide. So DDTC's mission is to ensure commercial exports of defense articles and defense services. One, advance national security objectives and two, advance foreign policy objectives. That is our mission here. And that's why a review of these applications matter.

So due to export control reform that was - that has been done over the past decade most of the items that used to be controlled by - under DDTC under the USML have transitioned over to Commerce. We have kept only the most important items that are critical to national security and foreign policy objectives under the USML which is why the review is so important.

It is the jewels that we're trying to protect. We want to make sure that these items are only going to the authorized countries. We want to make sure they're not falling into the wrong hands. We want to make sure they're not getting diverted where they're not supposed to go. That is why it is very important to conduct this review process.

The National Security Review is done by DOD. They ensure that the technology is safeguarded and each country that is approved, if approved, will only get the level of technology that DOD deems to be in accordance with our national security. And then the foreign policy objectives are secured by the inter-agency reviewers, the reviewers such as the foreign policy desks and other bureaus.

And the bottom line is that national security and foreign policy objectives are

only going to be able to be ensured by conducting a thorough review. We want to make sure again that we're protecting our technology. And that goes, you know, across the board. But not only that we want to make sure that the - we're not causing instability in a region which is another factor that comes into play on what is approved and what isn't.

We also want to maintain our technological edge and sometimes also our economic edge. So these are all factors that come into play in the review process. And that's the bottom line of why it matters.

Next slide. So going through the review process there are three major steps in the review process. First, is the initial review process. This is when this case comes to DDTC and is assigned to a case officer who is then going to take the initial look at your case. The second step is to go to send the case to interagency review. And then finally, the third step is when it comes back from interagency review and it is - it comes back to DDTC for final review and then adjudication.

Next slide. So in the initial review DDTC received the agreement request. The analyst is going to review it and make sure that it's accurate and complete and it has all the materials and everything is filled out correctly if there's - the DSP -5 is accurate, all the technical data that is required to support a good review is included. And if it's sufficient then the analyst is going to pass the agreement off to the interagency for review.

Next slide. So during the interagency review process there are several different locations they can go. All agreements are going to go to DOD for a national security review. The Regional Security and Arms Transfers Office or RSAT they conduct a foreign policy review as does the regional bureaus. And that's based on which countries the agreement is going to be involving.

There's also the Bureau of Democracy, Human Rights and Labor Affairs or DRL. They look at agreements for human rights concerns. And then there are also other agencies that may be involved in the agreement depending on what

the scope of the agreement is.

For instance, if it contains missile technology it would go to the Missile Technology Control Regime Review. There's other offices that deal with sanctions and applicability of those. So there are different bureaus that may review the application depending on the scope.

So after those agencies have gotten a chance to review and then have submitted their positions it comes back to DDTC. Then the analyst is going to adjudicate the positions. This may also involve further review within DDTC itself or within the bureau itself.

So sometimes applicants will contact DDTC. For those who don't know there is a Web site out there, the ELISA Web site, where you can put your case number and you can track the staffing status. It will say, you know, when it was staffed to DOD, when it was staffed to RSAT and then when they come back with their positions. Sometimes it'll - all the staffing agency will have returned a position but the case is still open and they'll contact us and say, hey, what happened? What's going on?

A lot of times it's because even though the staffing, the interagency has come back with their positions there are still a final review going on in DDTC for the case. So just because it's come back from staffing and you don't have the position yet doesn't mean it's been forgotten. It may be we're finalizing some things undergoing some final review here in DDTC.

Once everything is good and a final government position has been settled upon the agreement is then - the position is consolidated and the agreements analyst is going to adjudicate the position. So the case may either be approved with conditions or it may be denied for national security or foreign policy reasons.

Next slide. And at this point I'm going to pass the briefing on to my colleague Dhramen.

Dhramen Singh: Patrick, thank you. That was really good stuff. Good afternoon everybody. So policy and scope changes is rather relevant with a new administration and a rather fluid international landscape.

So the scope of our review and policy driving our decisions changed - changes with time that's obvious. But sometimes it can change rather quickly based on contemporary real life events. So if a country or a situation is in the news there's a good chance that the policy behind our review has changed or is undergoing review and impending change.

Current administration, congressional leaders all respond to changes in the in the world. So whenever an applicant is about to send in an application, please take in consideration that if a country is in the news that is within your agreement or your application, contact us if you think - if you have any idea that it might be affected with a policy change. And we'll do our best to provide some advice on what to do.

When it comes to existing agreements, just because something has been approved in the past and you've got an agreement that is simply based on administrative actions required it might require restaffing based on contemporary events whether there are concerns about human rights violations or security concerns within a geopolitical landscape. So no staffing doesn't necessarily mean it's not going to be staffed. Please take into consideration the current world scene.

So three examples of recent policy change scope changes will involve Russia, Ethiopia and Saudi Arabia. Russia is a unique case since it does have a carve-out for space agreements that we review and issue. However, all cases not involving space are really scrutinized intensely and generally Russian parties are proviso-ed out. Space cases are scrutinized differently. And when the parameters of space launch, et cetera, are met then it's staffed accordingly and licensed at the end.

Ethiopia is an example of the most recent country being affected by a policy change due to an assessment by the US government of gross human rights violations in a particular part of Ethiopia. So the impact upon DDTC is that we are not authorized - we are not authorizing any licenses or agreements for end use within Ethiopia.

And finally, the third example Saudi Arabia is a good example of a policy review of when a new administration the current administration took over. So whenever the new administration took over there was a review of pending executive branch actions to include arms sales. So during this review period DDTC was not authorized to issue any licenses or agreements for end use in Saudi Arabia but that review period is ended. And now we have - we can continue forward with supporting those type of agreements.

Next slide please. The staffing and status Patrick covered this a bit and I'll add a bit to it as well. So ELISA is a great tool for getting staffing perspectives within the outside agencies but always take in consideration that internally to DDTC cases will have to go forward for legal reviews, end use monitoring, bona fide checks or require additional higher level reviews.

Unfortunately, this is not available for you to see and we don't have the purview to provide exact details of these cases. So whenever it comes back to DDTC please understand that when we let you know that it's going through internal staffing. There are many echelons of staffing that certain cases have to go through and we will process it as quickly as possible. Take into consideration that certain parameters that we have to work with.

So with that being said cases are regularly monitored for processing statuses, movement within DDTC. Analysts are held accountable by division chiefs and division chiefs are held accountable by the deputy director and director. And this goes on on a weekly basis. So we are constantly monitoring and wanting and the goal is to process and issue licenses but just sometimes the process is very slow.

Next slide please. So tips, tricks and the trade craft, starting off with the transmittal letter. So when it comes to encryption of documents we definitely understand you need to encrypt to safeguard information. But we as workers within DDTC face severe legal issues if there's any violation of applicant's privacy. So it's better in the big scheme of things to send documents that are not encrypted because as the slide says that it allows for faster processing.

A copy and paste document definitely allows for consistency in language that you specifically would want within a license. DDTC templates, the Web sites maintains current templates that take into consideration any changes within the ITAR, SOPs, et cetera. Please use those templates.

If you get conflicting advice or guidance from an analyst, please ask questions because if you're using a template that is the most - that's the most updated template that we have that's helping to guide you through the process. So if there's an analyst that's giving you a different opinion definitely ask questions and dig deeper on that.

Be direct in the information that you provide. Keep it simple. Give us the five W's generally, you know, what, where, when, how, et cetera, that's an H as well. Tell us exactly what is it you want. This will - this will lessen the amount of provisos because there's ambiguity about the application.

The other thing is make sure you understand what is your - what is it that your agreement is wanting because the more fluent you are with what you want it just helps the overall processing of your application. An example is that I once received a congressional notification that had a document that was 78 pages - had 78 pages. And within those 78 pages there was a white paper, there was a signed contract and this was one of several documents attached for this congressional notification.

So the more that we have to dig in and try to find information to process your your paperwork, the longer this takes. And then when it - so something like congressional notification when there's outside agencies other parts of the

government reviewing it and they have to dig to find something it just slows this entire process.

Okay, next slide please. At this point we'll address any common questions.

Patrick Reimnitz: Yes there's a few questions that often come up that we're often asked about agreements and we're going to go through a couple of them here. So one of them is, "What is the difference between a TAA and an MLA?" I think I kind of answered this already. The big difference between a TAA and an MLA is that the MLA allows for the manufacture abroad of defense articles, you know, some control defense articles.

The second part of the question, "If we have to send manufacturing know-how to a foreign party does that automatically mean it's an MLA rather than a TAA?" Not automatically but more likely than not. If you're sending manufacturing know-how to a foreign party so in other words anything more than blueprints, so anything that would be a detail that a foreign party could use to turn a detailed design into a qualified and finished defence article is going to require an MLA. For it to not be an MLA you're going to have to demonstrate to us something along the lines that the foreign party is already a manufacturer of the subject item.

So if you're exporting widget X and they already know how to manufacture widget X you're just transferring this technical data for quality control purposes or something like that then we may consider the export of the manufacturing know-how under a TAA. That being said the starting point is that, yes, if you do have - if you are going to transfer manufacturing know-how that you would require an MLA.

Next question. Next slide. Hello?

Lisa Parker: Can you see the next slide? It says our proposed agreement involves classified data services...

Patrick Reimnitz: There we go.

Lisa Parker: ...should we use a DSP-85 as the vehicle to submit it instead of a DSP-5?

Patrick Reimnitz: OK, so the answer to that is no. All agreement submissions are going to come in on a DSP-5 Vehicle so you're going to use it on a DSP-5 to submit it electronically. If it involves classified data or defense articles the actual export in furtherance of the agreement of the hardware you would require to export that under DPS-85.

An agreement in general authorizes the transfer of technical data including classified, if it's approved under the agreement. You would only need to have an 85 if for some reason that technical data is going to be transmitted through some kind of physical medium.

So for instance if you're going to export a, I don't know, computer, laptop that has the technical data on it and it's a program and it's classified and you're actually exporting that physical item then that would have to be exported under DSP-85. But actual - the actual exchange of classified data or even electronically would be covered under the agreement. You would not have need a DSP-85 for those.

And as far as submitting the agreement itself if there are classified documents you still submit the agreement on a DSP-5 and you submit the agreement document itself unclassified and then you can have classified addendums. Do not submit them electronically on the DECCS system. If you have classified documents that will support your application those need to be submitted in hard copy either to DDTC or to DTSA directly.

Lisa Parker: Awesome, thank you. So actually go back one question, "How do I assign value to my proposed TAA or MLA?"

Patrick Reimnitz: So that is a business decision. You're going to assign a value to the technical data and defense services. DDTC does not have specific guidance on how to

assign that value. Some general guidance can be, you know, what is the value of the technical data if you were to sell it or what is the amount of hours?

So if you have engineers working on this project how many - how long do you think the engineer is going to be working on this project times their hourly rate. Whatever you want to do we - it's really a business call on how to find a value for the defense articles, defense services.

For the hardware portion it's going to be the value that you foresee exporting. So if you're expecting to export \$1 million so let's say your item is \$100,000 worth and you're going to you're going to export ten items then your hardware value is going to be \$1 million. So it is going to be based on the value of the hardware.

Lisa Parker: Thank you. So we're going to jump ahead to, "Our agreement is supposed to be for ten years but the DSP-5 says 48 months, why is there a difference?"

Dhramen Singh: Sure, I'll take care of that one. It's just that the system is not built up to handle the length of time that we license agreements for. So it only goes to 48 months. So whatever the license says whether it be ten years, eight years, whatever is requested that is the - that is what you go by not by the 48 months.

Next question.

Lisa Parker: Yes. All right, "Our agreement expires next month, is it too late to request an extension?"

Dhramen Singh: Okay, so this happens on a semi regular basis. Yes sometimes stuff happens and we lose track of when an agreement expires. In this kind of situation contact the analyst and work with the analyst to get to - and provide the required documentation which is a letter that's requesting the extension.

Generally, my colleagues and I will always work with the applicant but try not to let this happen on a regular basis because then we see a pattern and it makes

us less prone to wanting to assist. But generally, yes we are totally open to assisting in these cases.

Lisa Parker: Awesome thank you. So that was the end of our canned question so I'm now going to turn it over to Charlie Liebetrau who is going to moderate the questions that we've received. And just as a quick time thing we only have about 12 minutes left, we have a good number of questions. So we're going to go through some of the more commonly asked but just everyone's awareness we do have everyone's questions that we will be able to sort through and share with our office. So Charlie?

Charlie Liebetrau: Okay, let's tackle which in the stack that we can get through. So the first question and we usually get with a lot of these Webinars, Chris, I'll point this one to you. And that is, "Will you provide a copy of the presentation material?"

Chris Radcliffe: So - thanks (Charlie) first off. So a copy of the transcript and the recording will be available about ten days after the presentation from today. And that'll be both on DDTC's Web site as well as the Census Bureau's Web site.

Charlie Liebetrau: There you go. We always want to make sure that these are available for folks after we give the presentation. All right, so now, Patrick and Dhramen the very common question we've been seeing a lot in the FAQs, we've mentioned the new updated TAA guidelines. Do we know when those will be published and made available?

Patrick Reimnitz: Hopefully soon.

Charlie Liebetrau: Yes, there's nothing like being put on the spot right away, right? Like hey...

Patrick Reimnitz: They are in the final stages of being reviewed. So I don't want to give a date because I don't want to jinx it but hopefully soon.

Charlie Liebetrau: Obviously, we know it is a key need or for folks a resource that people are

using. So we will absolutely make sure it's a priority. We know we're working on it. It's a hot topic. Okay Lisa I want to ask you this one, "Is there a near-term plan to add the feature of a license look up such as ELISA to the DECCS platform?"

Lisa Parker: That's something that's actually been discussed a good amount in our DECCS user group. And this is discussed as a longer term road map item with a shorter term solution of linking ELISA directly in DECCS. So we will post to the Web site when that is available.

Charlie Liebetrau: Perfect. And then Dhramen and Patrick again I think we've talked about this but just to make sure, is that the best way to follow up on the status of a TAA? Is that the best way to get status updates on those submissions?

Dhramen Singh: I - yes, I would agree with that, but I also regularly will get an email from an applicant noticing, noting that staffing has been complete within DTSA, et cetera. What's going on with the case? And then I provide an update to the best of my ability that that's not available on DECCS for ELISA.

Charlie Liebetrau: Okay, that's excellent. Do we have, Dhramen to follow up on that, is there an average TAA review timeline? I know this is something that is not always standard but is there some common guideline we can say for how long that would take to get through the process.

Dhramen Singh: Yes, I think we would generally give about 60 days. But I think with the current environment, with the pandemic that has really changed the landscape of processing it, I can only speak internally that we are back to almost full staffing. So I would say that over the next few months, based on people returning to work full time, there might be a difference in a speeding up of processing.

But not having the length of time here to know how it was done two or three years ago. I would say generally 60 days is appropriate, but it's also based on the commodity and how busy those other outside analysts are.

Charlie Liebetrau: Right. And of course, every submission is going to be different, depending on exactly what's included, may require more in-depth review and research and all those caveats that we need to place on those process. So we assure you we are working on them as hard as we can.

Dhramen and Patrick, the other one is that we've been seeing a lot. Is there an updated list of reviewing agency acronyms available? Some folks are thinking this would be helpful when using ELISA to track status, as in knowing where it actually is.

Patrick Reimnitz: I'm not sure, but if it's not on the DDTC Web site, that is probably something we could add. So I'll take an action to go back and look and find out. And if we don't to make sure that does get added because, that - that's a good point.

Charlie Liebetrau: And I will say this is not just so you guys know, this is not limited to agreements. We have absolutely heard anytime acronyms come up. Yes, it is - it is valuable to have the dictionary somewhere hiding behind it.

So one of the questions specifically on timelines, but this one is when submitting an amendment to extend the length of an agreement, is there any tips for that? Any way that that might - is that a simplified form? Is there any way where they can get - users can get that submission through to extend the length of an agreement?

Patrick Reimnitz: Yes, you can submit an amendment to extend the length of an agreement. Those will typically go very fast. Those do not have to be staffed. They can be completely adjudicated by the licensing analyst who receives that. If you want to make sure it goes through quickly, take the time to make sure that DSP-5 is filled out correctly, because that's really the only thing that's going to prevent it from being approved is if there's an error in the DSP-5 and we have to RWA.

With amendments, even though you're not changing anything, all the

information has to be there from the previous - from the agreement. So everything that's approved in the agreement, all the parties, everything has to be on the DSP-5, and that's where we will often see the error and have a RWA is when something didn't come over either is one of the areas I spoke about before, or they forgot to add a party or something like that.

We still have to do a full review on the analyst side of the agreement, but it does not go beyond us if you're just trying to extend a date so it can be a relatively quick process, just make sure that the DSP-5's filled out correctly.

((Crosstalk))

Dhramen Singh: To add onto what what Patrick said.

Charlie Liebetrau: Yes.

Dhramen Singh: If there's no change in scope and territory, that really helps the process.
Thanks.

Charlie Liebetrau: Okay. All right. And is that a similar question then, guys, when an - this is another question, when an applicant adds a newly established subsidiary to an agreement? Should the subsidiary be added to the subsidiary block, through a DSP-6, through a minor amendment, both? Or is there another type of process for that?

Patrick Reimnitz: No, if there's a subsidiary and it is not is not owned by a parent company, they're going to have to be added to the to the DSP-5 into the agreement. So they had to become a signatory to the agreement as well.

Charlie Liebetrau: Okay.

((Crosstalk))

Patrick Reimnitz: So it'd be a major amendment, major amendment being has - and it requires

DDTC approval.

Charlie Liebetrau: Right. Okay, so there are a lot of very specific questions here guys and I'm trying to make sure that I find one that is going to apply to as many people as possible. So let me see if I can find anything that makes the most sense.

Lots of people, again, are asking about the timeline. The question is "Once a TAA has been approved by DTTC and executed by all parties what does the exporter have to do to comply? As in are they supposed to keep records of every transfer or are there any other expectations of them after the submission has been fully approved?"

Patrick Reimnitz: There are several things that the exporter will have to do. They will have to notify us of the initial export. If it's an MLA, they have to provide us with a report of sales associated with the MLA. And these can be found in the ITAR. The way to submit them to DDTC is normally, you would upload them to the case file for the approved case. So the DSP-5 file where you originally submitted to the agreement.

Charlie Liebetrau: Okay, that's perfect. All right, I think I've got time. Let's see if I have time for one more. "Can a TAA be used to design parts as designing them may include how to manufacture them. In other words, they won't actually be manufacturing an item?" So it is just simply for the design of the part?

Patrick Reimnitz: If you're asking about manufacturing, it's going to depend on manufacturing, know-how. If you're just designing something, it's technically - theoretically could be under a TAA. If you cross the line of manufacturing know-how as it's defined in the ITAR, then yes, you would require an MLA. So it's really - even if there's not actually something being manufactured abroad. So it's going to be a dependent situation. It's really going to depend what it is and how much how much information is being provided to the foreign party.

Charlie Liebetrau: All right.

Patrick Reimnitz: As said before it also depends on the previous knowledge of the foreign party. If you're developing...

Charlie Liebetrau: Yes.

Patrick Reimnitz: ...something that they already know, you know, if you're developing or designing a new type of widget X and this foreign party already develops a widget X and it's just a different type of it, then perhaps not. It can be maybe a TAA. But if they have no knowledge and you're showing them how to create this this widget, it's beyond a design, beyond just designing it, then you may require an MLA, but it's really going to be case by case.

Charlie Liebetrau: Okay, there you go. Thank you both. I think with that, we're going to have to wrap it up. We've got a lot more questions in the hopper here that you guys were very generous to share with us. We will do our best. The most common questions that we've been asked here to provide updated information on our Web site in the FAQ section when asking about those common questions about agreements.

For those folks who had some very specific questions like Dhramen and Patrick talked about, they encouraged folks to reach out and contact DDTC for help. Definitely go to pmddtc.state.gov. Look for the Contact Us at DTCC link to send us a direct e-mail and open a support case.

Or if you are logged into the DECCS system, you can start a support case there. And folks from our Help Desk and response teams will make sure that your questions are routed correctly, get to the people who can answer them as quickly as possible and your information will be tracked and your answers will be stored on that system so you can refer to them later. With that, I think we're going to have to cut the presentation there. Wendy. I'll hand it back to you.

Wendy Peebles: Okay, great. Thank you, Charlie. Thank you. Certainly want to thank the State Department and their expert team for offering this Webinar on agreements.

And thank you to all who joined today and thank you for your questions.

The plan is that we will be offering additional content in the fall from the State Department. So please be on the lookout at the Census Web site as well as the State Department Web site.

We ask that you please complete the evaluation. We value your feedback. As you are exiting, you will receive a link that will take you to an external Web site for completing the evaluations - short evaluation about seven questions so once again please take a moment to complete. Thank you for joining today and please continue to be safe. This concludes the Webinar.

Coordinator: That does conclude today's conference. Thank you for participating. You may disconnect this time.

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